



CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

New Jersey Office of the Attorney General

Division of Consumer Affairs
New Jersey Board of Nursing
124 Halsey Street, 6th Floor, Newark, NJ 07102
www.njconsumeraffairs.gov/medical/nursing.htm



JOHN J. HOFFMAN
Acting Attorney General

ERIC T. KANEFSKY
Director

Mailing Address:
P.O. Box 45010
Newark, NJ 07101
(973) 504-6430

July 22, 2015

VIA REGULAR AND CERTIFIED MAIL

Martha Smith Gaither, C.H.H.A.
600 Artisan Street, Apt 13
Trenton, NJ 08618

RE: I/M/O Martha Smith Gaither, C.H.H.A.
Final Order of Discipline

Dear Ms. Martha Smith Gaither:

Enclosed please find a copy of the Final Order of Discipline ("FOD") filed with the New Jersey State Board of Nursing ("Board") in the above referenced matter. Please read this Order carefully, as you may be subject to additional discipline if you do not comply with the terms of the Order. You can obtain information about the status of your certification by calling the Board office at (973) 504-6430.

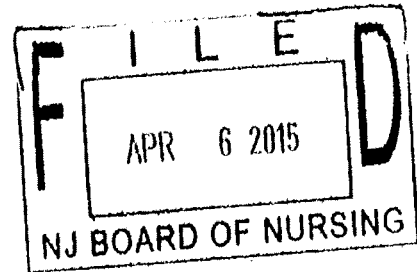
Sincerely yours,

Joanne Leone, Acting Executive Director,
State Board of Nursing

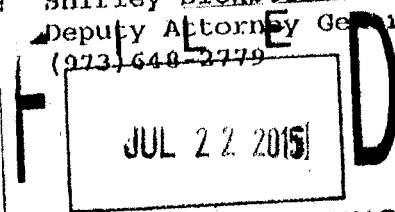
Encl.

cc: Shirley Dickstein, DAG

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street, 5th Floor
P.O. Box 45029
Newark, New Jersey 07101
Attorney for the State Board of Nursing



By: Shirley Dickstein
Deputy Attorney General
(973) 648-2779



STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF NURSING

IN THE MATTER OF THE SUSPENSION
OR REVOCATION OF THE LICENSE OF

Martha S. Gaither, C.H.H.A.
Certificate No. 26NH10582200

HOMEMAKER-HOME HEALTH AIDE
IN THE STATE OF NEW JERSEY

ADMINISTRATIVE ACTION

PROVISIONAL ORDER OF
DISCIPLINE

☒ FINAL ORDER OF DISCIPLINE
(Finalized by default
on July 22, 2015/07/22/2015)

FINAL

This matter was opened to the New Jersey State Board of Nursing (the "Board") upon receipt of information which the Board has reviewed and upon which the following preliminary findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Martha S. Gaither ("Respondent") is a certified homemaker-home health aide in the State of New Jersey and has been a licensee at all times relevant hereto. (Exhibit A).

2. The Board Received a flagging notice indicating that Respondent was arrested on November 1, 2014 by the Lawrence Township Police for violation of N.J.S.A. 2C:20-4A, Theft By Deception (7 counts), and N.J.S.A. 2C:21-7A(1) Wrongful Impersonation. Specifically, Respondent was accused of having her client, who had diminished mental capacity due to a brain aneurysm, sign and endorse seven blank checks. Respondent then filled in the dollar amounts, cashed six of the checks and attempted to cash the seventh check, all without the consent of the client. The checks totaled approximately \$17,000.00. The Board sent a letter of inquiry, requesting certain information and submission of documents, to Respondent's address of record in Trenton, New Jersey, via regular and certified mail on or about November 15, 2014. A response was due within twenty (20) days. The certified mailing was returned to the Board as "unclaimed." The regular mailing was not returned (Exhibit B).

3. To date, Respondent has not responded to the Board's request for information.

4. Respondent admitted to the police that she filled in the amounts on the checks and cashed the six checks in question and spent the money. Respondent also admitted that the client provided a \$3,500.00 down payment to a car dealer for Respondent's purchase of a car.

CONCLUSIONS OF LAW

Respondent's failure to respond to the Board's request for information constitutes a failure to cooperate with a Board investigation, in contravention of N.J.A.C. 13:45C-1.2 and 1.3, which the Board deems professional misconduct pursuant to N.J.S.A. 45:1-21(e), subjecting Respondent to disciplinary action pursuant to N.J.S.A. 45:1-21(h).

Respondent's admission to having her client sign and endorse checks that Respondent cashed, and to having her client make a down payment for Respondent's purchase of a car demonstrate that Respondent has engaged in acts constituting crimes involving moral turpitude and relating adversely to the practice of homemaker-home health aide care in violation of N.J.S.A. 45:1-21(f), and professional misconduct in violation of N.J.S.A. 45:1-21(e).

ACCORDINGLY, IT IS on this 6th day of April, 2015,

ORDERED that:

1. Upon the filing of a FINAL ORDER OF DISCIPLINE, Respondent's certificate to practice as a homemaker-home health aide shall be suspended for a minimum period of five (5) years from the date of the filing of a FINAL ORDER OF DISCIPLINE and until such time as Respondent cooperates fully with the Board's

investigation by providing the Board with the information requested in the Board's letter of inquiry.

2. Upon the filing of a FINAL ORDER OF DISCIPLINE, Respondent shall promptly, within 5 (five) days, mail her certificate, wall and wallet version, to practice as a homemaker-home health aide to George Hebert, Executive Director, State Board of Nursing, P.O. Box 45010, Newark, New Jersey 07101.

3. Upon the filing of a FINAL ORDER OF DISCIPLINE, Respondent shall immediately cease and desist from holding herself out as a certified homemaker-home health aide and/or practicing as a homemaker-home health aide, which includes, but is not limited to, performing delegated nursing regimens or nursing tasks delegated through the authority of a duly licensed professional nurse. Any practice in this State shall constitute grounds for a charge of unlicensed practice.

4. Prior to any reinstatement, Respondent shall:

- a. Appear before the Board to discuss her readiness and qualifications to practice as a certified homemaker-home health aide.
- b. Affirmatively establish her fitness, competence and capacity to re-enter active practice as a certified homemaker-home health aide.
- c. Provide documentation of successful completion of all application requirements including a Criminal History Background Check and payment of all reinstatement fees.

d. Provide the Board with proof of the resolution of any criminal charges filed against her and compliance with any terms imposed by the criminal authorities related to this matter.

5. If Respondent's certification as a homemaker-home health aide is reinstated, the Board, in its discretion, may impose any conditions or restrictions on licensure it deems necessary to protect the public health, safety and welfare.

6. Respondent shall remit payment of a monetary penalty pursuant to N.J.S.A. 45:1-25 in the amount of \$500.00, by certified check, bank cashier check or money order payable to "State of New Jersey," or by wire transfer, direct deposit, or credit card payment delivered or mailed to George Hebert, Executive Director, State Board of Nursing, P.O. Box 45010, Newark, New Jersey 07101. Any other form of payment will be rejected and will be returned to the party making the payment. Payment shall be made no later than 15 days after the date of filing of a FINAL ORDER OF DISCIPLINE. In the event Respondent fails to make a timely payment, a certificate of debt shall be filed in accordance with N.J.S.A. 45:1-24 and the Board may bring such other proceedings as authorized by law.

7. The within order shall be subject to finalization by the Board at 5:00 p.m. on the 30th day following entry here of

unless Respondent requests a modification or dismissal of the above stated Findings of Fact or Conclusions of Law by:

- a) Submitting a written request for modification or dismissal to George Hebert, Executive Director, Board of Nursing, 124 Halsey Street, Sixth Floor, P.O. Box 45010, Newark, New Jersey 07101.
- b) Setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed.
- c) Submitting any and all documents or other written evidence supporting Respondent's request for consideration and reasons therefore or offered in mitigation of penalty.

8. Any submissions will be reviewed by the Board and the Board will thereafter determine whether further proceedings are necessary. If no material discrepancies are raised through a supplemental submission during the thirty-day period, or if the Board is not persuaded that the submitted materials merit further consideration, a FINAL ORDER OF DISCIPLINE will be entered.

9. In the event that Respondent's submissions establish a need for further proceedings, including, but not limited to an evidentiary hearing, Respondent shall be notified with regard thereto. In the event that an evidentiary hearing is ordered, the preliminary findings of fact and conclusions of law contained herein may serve as notice of the factual and legal allegations in such proceeding. Further, in the event a hearing

is held and upon review of the record, the Board shall not be limited to the findings, conclusions and sanctions stated herein.

10. In the event that the Board receives no written request for modification or dismissal within 30 days following entry of this Provisional Order of Discipline, without further Board review, all referenced preliminary Findings of Fact and Conclusions of Law and all provisional sanctions or penalties imposed by this Order shall automatically become the Final Decision and Order of the Board. Thereafter, Respondent's failure to comply with any sanction or penalty imposed by this Order shall be considered a violation of a Board Order in contravention of N.J.S.A. 45:1-21 (e) and (h) and N.J.A.C. 13:45C-1.4 and may subject Respondent to additional sanction and/or penalty.

11. The Board reserves the right to initiate disciplinary proceedings based upon any information that Respondent ultimately provides in response to the letter of inquiry or upon any new information the Board receives.

12. Any violation of this order by Respondent shall constitute grounds for such proceedings as are permitted by law.

By: Patricia Murphy Ph.D., APN
Patricia Murphy, Ph.D., APN, FAAN
President